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**FISCAL IMPACT STATEMENT**

**LS 7241**

**BILL NUMBER:** SB 419

**NOTE PREPARED:** Feb 18, 2009

**BILL AMENDED:** Feb 17, 2009

**SUBJECT:** Quality of Surface Waters.

**FIRST AUTHOR:** Sen. Gard

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1st House

**FUNDS AFFECTED:** X **GENERAL**  
**DEDICATED**  
**FEDERAL**

**IMPACT:** State

**Summary of Legislation:** (Amended) *Total Maximum Daily Load (TMDL) for a Pollutant*. The bill allows the Department of Environmental Management (IDEM) to establish for a surface water the total maximum daily load (TMDL) for a pollutant only if in identifying the surface water IDEM identifies the pollutant under consideration. The bill allows IDEM to include a subsequently discovered pollutant in a TMDL if IDEM demonstrates that the surface water is impaired by the pollutant, notifies all interested parties, and holds a public meeting and accepts comments.

*Adoption of Rule for Antidegradation Standards.* With respect to all surface waters of the state other than outstanding national resource waters, the bill requires IDEM to complete an antidegradation review of rules that authorize NPDES general permits. After the review is conducted, the bill limits the authority of the board to adopt a rule to apply antidegradation standards and implementation procedures. With respect to determinations whether a proposed discharge is socially or economically necessary under antidegradation standards and implementation procedures, the bill lists factors to be considered by the IDEM Commissioner and provides that substantial weight must be given to any applicable determinations by the state or a political subdivision. The bill establishes a deadline for IDEM to adopt antidegradation standards and implementation procedures and to act on applications for approval of associated NPDES permits. The bill allows the IDEM Commissioner to extend for cause for not more than 90 days the deadline for IDEM to adopt antidegradation standards and implementation procedures.

**Effective Date:** Upon passage.

**Explanation of State Expenditures:** *Total Maximum Daily Load for a Pollutant*. This provision could result in a reduction in administrative expenses for IDEM to the extent that it reduces the circumstances under

which IDEM must calculate a TMDL. IDEM currently has a process for calculating TMDL and identifying pollutants. Currently, IDEM calculates TMDL even if specified pollutants are not present.

(Revised) *Discovery of Additional Pollutants*- This provision would allow IDEM the option to included additional pollutants in the calculation of TMDL in surface water by doing the following:

(1) demonstrating further impairment of the surface water, (2) notify all interested parties, and (3) hold a public meeting on the matter. Holding public hearings could increase IDEM administrative workload.

(Revised) *Adoption of Rule for Antidegradation Standards*- If an antidegradation rule is passed after January 1, 2009, and a review of IAC rules relating to antidegradation is completed, the Water Pollution Control Board (WPCB) would not be able to adopt a rule to apply antidegradation standards and implementation procedures to activities covered under an NPDES general permit. This provision would affect IDEM administrative expenses. The expenditure amount would depend on the level of antidegradation rule oversight required for the NPDES program. The impact would depend on the specifications within the adopted rule.

The IDEM Commissioner would be required to consider whether the application of antidegradation standards rules on permits for discharge is socially and economically necessary. Any rule adopted by the WPCB would require the Commissioner to give substantial weight to any applicable determinations by other governmental entities. Considering local determinations should have little impact on IDEM expenditures.

(Revised) Background:

*TMDL*- IDEM currently prepares a list of impaired waters for the purpose of complying with the federal Clean Water Act (33 U.S.C. 1313(d)). Section 1313(d) requires, among other provisions, that each state establish for impaired waters the TMDL for certain pollutants at a level that would assure protection and propagation of a balanced indigenous population of fish, shellfish, and wildlife.

#### **Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Adoption of Rule for Antidegradation Standards*- The bill requires in a determination of social and economical necessity that substantial weight be given to any applicable determinations by governmental entities. This provision should have little impact on local expenditures. It could encourage submission of local determinations.

#### **Explanation of Local Revenues:**

**State Agencies Affected:** IDEM.

**Local Agencies Affected:** Governmental entities that submit determinations regarding discharges into waters.

**Information Sources:** IDEM.

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